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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,420	06/27/2001	Yasushi Ayaki	MTS-3263 US	2673

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EXAMINER

FLETCHER, JAMES A

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action****Application No.**

09/869,420

**Applicant(s)**

AYAKI, YASUSHI

**Examiner**

James A. Fletcher

**Art Unit**

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-9.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_



ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because: In re page 7, applicant's representative states: "Winter does not suggest a criteria in which a file is deleted based on a deletion criteria that includes a number of times a data file has been viewed."

The examiner respectfully disagrees. Winter et al clearly suggest a system wherein viewing a file is a criteria for deletion, as described in the final office action. Winter's user can determine if an alarm event has or had not been viewed, allowing him to determine if the file can be deleted.

Further In re page 7, applicant's representative states "Browne does not disclose a deletion file selecting criteria for each one of the files to be deleted."

Again, the examiner respectfully disagrees. On page 19, lines 22-23, Browne states "only programs which have been viewed will be automatically erased." Clearly, in order for this selection to be functional, each file must be flagged with its viewing history.

In re page 8, applicant's representative states: "Browne does not disclose that a file management means includes setting the number of times each of the stored data files has been viewed."

The examiner respectfully disagrees. Browne's management means allows for a viewing number of times to be set for 0 or 1, as disclosed in the passage cited above. The language of the claim does not recite a quantity of viewings in excess of 1, simply that a number can be set. Since Browne indicates that the number can be either 0 or 1, the language of the claim has been met by the cited prior art.

Further in re page 8, applicant's representative states: "the step of setting the number of times each of the stored data files has been viewed is missing from either of the references..."

The examiner again respectfully disagrees. Both references can be set to indicate that the number of times a file has been viewed is either 0 or 1, as disclosed in the passages cited above. The language in the claim does not recite a quantity of viewings in excess of 1.

In re page 8, applicant's representative states: "Browne does not teach setting a number of times a file has been viewed for each of the stored data files. Winter does not disclose a deletion criteria based on the number of times a file has been viewed."

The examiner respectfully disagrees. Both Browne and Winter clearly indicate the existence of management data indicating the number of times the file has been viewed, that number being limited to 0 or 1. The language in the claim does not recite a quantity of viewings in excess of 1.

In re pages 9 and 10, applicant's representative states: "Browne only determines whether a stored data file has been viewed or has not been viewed. If the data file has been viewed, and additional storage is needed, the system deletes the file that has been viewed, regardless of the number of times that file or other files have been viewed. As we understand Browne, Browne does not disclose a criteria for deleting a file based on determining whether a stored data file has been viewed more times than the other stored data files, and deleting the stored data file that has been determined to have been viewed more times than the other stored data files.

The examiner respectfully disagrees. While it is true that Browne only notes that a file has or has not been viewed, that can easily be restated as Brown keeping track of the number of times the file has been viewed, with a maximum stored value of 1. In other words, each file in Browne has a log of how many times the file has been viewed, with possible values of 0 through 1. Further, having that value store for each file, the number of times the files have been viewed can be compared with the stored files, and those that have been viewed more (those with a times viewed number of 1) than the others (those with a times viewed number of 0) can be deleted.

The examiner would like to note that the invention disclosed in the application appears to be a video recorder with finite capacity, that allows a user to determine the number of times a file has been viewed before the file can be deleted automatically by the system in case of a need for additional storage, based on the specification and the drawings. The cited prior art is limited to a maximum viewing count of 1. The adjustable feature of the invention, as claimed, does not make it clear that these adjustments can be set to a number in excess of 1. If that feature were claimed, it appears that such a limitation would overcome the cited prior art..